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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-ninth session

SUMMARY RECORD OF THE 37th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 28 August 1997, at 3 p.m.

Chairman: Mr. BENGOA

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CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS UNDER AGENDA ITEM 11
(continued)

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GE.97-14008 (E)

The meeting was called to order at 3.30 p.m.

CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS UNDER AGENDA ITEM 11 (continued) (E/CN.4/Sub.2/1997/L.7, L.23, L.32, L.33, L.42, L.44, L.50, L.51, L.57, L.58, L.61).

Draft resolution E/CN.4/Sub.2/1997/L.7 (Adverse consequences of economic sanctions on the enjoyment of human rights)

1. Mr. CHERNICHENKO said he would not oppose the adoption of the draft resolution, but would not support it either. He believed that the Sub-Commission was going beyond its mandate and encroaching on the Security Council's terms of reference.

2. Mr. GUISSE disagreed with Mr. Chernichenko. The Sub-Commission was not asking the Security Council not to impose sanctions, it simply did not wish the sanctions to affect or hinder their exercise of human rights. It did not, therefore, encroach upon the Security Council's terms of reference.

3. Mr. KHALIL said that he fully supported Mr. Guissé and wished to co-sponsor the draft resolution.

4. Draft resolution E/CN.4/Sub.2/1997/L.7 was adopted.

Draft resolution E/CN.4/Sub.2/1997/L.23 (International peace and security as an essential condition for the enjoyment of human rights, above all the right to life)

5. The CHAIRMAN announced that Mr. Guissé and Mr. Khalil wished to co-sponsor the draft.

6. Mr. HATANO said that his name should have appeared on the list of sponsors.

7. Draft resolution E/CN.4/Sub.2/1997/L.23 was adopted.

Draft resolution E/CN.4/Sub.2/1997/L.32 (Illicit transfer of arms)

8. The CHAIRMAN announced that Mr. Joinet wished to co-sponsor the draft.

9. Draft resolution E/CN.4/Sub.2/1997 was adopted.

Draft resolution E/CN.4/Sub.2/1997/L.33 (Promotion of dialogue on human rights issues)

10. Mrs. PALLEY said that she was not one of the 22 sponsors of the draft because she had serious reservations about operative paragraphs 1, 2 and 3. Cooperating and consulting with States was the business of the Commission, not the Sub-Commission, because the members of the Sub-Commission were independent experts, not negotiators. As for dialogue among the members of the Sub-Commission, she believed that a number of questions of principle needed to be discussed, but efforts to find the lowest common denominator were a waste of time. She called for a vote on the draft resolution.

11. Mr. BOSSUYT said that the draft resolution could be interpreted as Mrs. Palley did, but many of the sponsors did not, in his view, share that interpretation. He added that Mr. Boutkevitch, not Mr. Shamshur, should be listed among the sponsors.

12. Mrs. WARZAZI did not feel it could be said that the 22 sponsors of the draft were distorting the role of the Sub-Commission. She drew to Mrs. Palley's attention the conclusion of a study by a major non-governmental organization, namely that a group of experts such as the Sub-Commission must include diplomats.

13. Mr. WEISSBRODT thought it important for members of the Sub-Commission to consult each other, for that would improve the way the Sub-Commission functioned; the objective was not to seek the lowest common denominator. It was also important to consult Governments and inform them about draft resolutions and statements concerning their countries.

14. Mr. FAN Guoxiang pointed out that an error had crept into the last preambular paragraph, since the Chairman's statement to the Commission on Human Rights at its fifty-third session had been made on 18 April and not on 5 August 1997.

15. Mr. JOINET said he had not sponsored the draft for broadly the same reasons as Mrs. Palley. Cooperation with States had reached such a pitch that he personally had little time left to meet representatives of non-governmental organizations. He had reservations about the fifth preambular paragraph which, in his view, implied that the Sub-Commission should no longer pass resolutions on the situation in particular countries for fear of political manipulation. In any event, he was not a great lover of consensus, and felt that everyone should take responsibility for his own beliefs.

16. Mr. EIDE said that he took a different interpretation of the draft from Mrs. Palley. The point was not so much to cooperate with Governments as with non-governmental observers, which the draft explicitly mentioned. Besides, the members of the Sub-Commission were independent experts and not representatives of their Governments or diplomats. Nor was there any question of seeking consensus at any price when the experts were not all of the same opinion. He felt that human rights questions were not being used for political purposes when the objective was to improve the human rights situation in a particular country, which was different from promoting the interests of an outside player.

17. Mr. EL-HAJJE said that members of the Commission must consult each other. Since they came from different regions, they could provide useful information which would clarify the discussion.

18. Mr. DIAZ URIBE agreed with Mr. Eide and said that the problem was not caused by experts taking a stand on the human rights situation in a particular country, but by the efforts some States might make to turn Sub-Commission resolutions to political advantage.

19. Draft resolution E/CN.4/Sub.2/1997/L.33 was adopted by 20 votes to 1.

20. Mr. JOINET explained that he had supported the draft resolution in view of the clarifications provided by Mr. Eide and Mr. Diaz Uribe. He maintained his reservations as to the last preambular paragraph.

Draft decision E/CN.4/Sub.2/1997/L.42 (The concept of affirmative action)

21. Mrs. WARZAZI said it had been agreed that Mr. Bossuyt should be asked to produce the working paper on the concept of affirmative action.

22. The CHAIRMAN announced that Mr. Joinet and Mr. Weissbrodt wished to co-sponsor the draft decision.

23. Draft decision E/CN.4/Sub.2/1997/L.42 was adopted.

Draft resolution E/CN.4/Sub.2/1997/L.44 (Human rights and terrorism)

24. Mrs. PALLEY said she was not among the sponsors of the draft because she had serious reservations about the study called for. She hoped that the author of the study, Mrs. Koufa, would place more emphasis on prevention than on combating terrorism. On the latter point, she believed that Governments did not have the political will to cooperate. She was sorry to say that Governments also lacked preventive policies, given that terrorism arose only when democracy failed. She also regretted that the draft resolution did not mention terrorist States. She believed that States resorted to terrorism when they were publicly excluded from the international community. All States should be treated equally. It would be more productive if States which disapproved of the policies followed or action taken by other States let them know in private. She saw no point in the study called for, but would not ask for a vote.

25. Draft resolution E/CN.4/Sub.2/1997/L.44 was adopted.

Draft resolution E/CN.4/Sub.2/1997/L.50 (The protection of human rights in the context of human immunodeficiency virus (HIV) or acquired immune deficiency syndrome (AIDS)

26. Draft resolution E/CN.4/1997/L.50 was adopted.

Draft resolution E/CN.4/1997/L.51 (Review of further developments in the fields with which the Sub-Commission has been or may be concerned)

27. Draft resolution E/CN.4/Sub.2/1997/L.51 was adopted.

Draft decision E/CN.4/Sub.2/1997/57 (Humanitarian situation in Iraq)

28. Mr. CHERNICHENKO said the draft resolution should have been discussed under agenda item 2, since it was concerned with the human rights situation in a particular country.

29. Mrs. WARZAZI said that, in earlier sessions, the draft decision on the humanitarian situation in Iraq had always been submitted under agenda item 11 (c); the decision was strictly humanitarian in nature.

30. Mr. GUISSE said that even if it was concerned with a particular country, the draft resolution had not been discussed under agenda item 2 because it constituted an appeal to the international community to alleviate suffering among the Iraqi population caused by internationally imposed sanctions.

31. Mr. KHALIL endorsed the views expressed by Mrs. Warzazi and Mr. Guissé.

32. Mr. CHERNICHENKO said that when the Sub-Commission adopted a draft resolution on the human rights situation in a particular country, it also did so for humanitarian reasons. He maintained that the draft should have been discussed under agenda item 2, but would not oppose its adoption.

33. Mr. WEISSBRODT said that, in earlier sessions, the draft decision on the humanitarian situation in Iraq had been offset by a draft resolution on the human rights situation in the country. That was not the case at the current session because the Sub-Commission had decided, by decision 1996/115, to take no action under agenda item 2 on human rights situations already before the Commission. There was, therefore, a danger that adoption of the draft decision would be seen as a device to circumvent decision 1996/115, particularly since the Sub-Commission had already passed the draft resolution entitled "Adverse consequences of human sanctions on the enjoyment of human rights".

34. Mr. BOSSUYT said that he largely agreed with Mr. Weissbrodt. He did not see why, of all the countries hard hit by sanctions, Iraq should be singled out in such a draft decision. He was sorry the draft had been submitted, but would not oppose its adoption.

35. Mr. JOINET endorsed the viewpoint expressed by Mrs. Warzazi and said he wished to co-sponsor the draft, which was not, in his opinion, political.

36. The CHAIRMAN told the Sub-Commission that Mrs. Attah, Mr. Diaz Uribe, Mr. Guissé, Mr. Fix Zamudio, Mr. Khalil, Mr. Ali Khan and Mr. Mehedi wished to co-sponsor the draft decision.

37. Draft decision E/CN.4/Sub.2/1997/L.57 was adopted.

Draft resolution E/CN.4/Sub.2/1997/L.58 (Human rights and scientific and technological development)

38. Mr. GUISSE, supported by Mr. DIAZ URIBE, said that Mr. El-Hajjé should not be restricted to medical questions in his study but should extend his investigations into other areas.

39. Mr. JOINET feared that the study to be undertaken by Mr. El-Hajjé would overlap with work being done at UNESCO. Nevertheless, he would not oppose adoption of the draft.

40. Mr. EIDE wondered whether it might not be wiser to abandon such an ambitious project. The question of human rights and progress in science and technology was both vast and extremely complicated, as could be seen from the controversy it gave rise to in scientific and academic circles. Nonetheless, he would not call for a vote on the draft.

41. Mr. WEISSBRODT shared Mr. Eide's fears but would not oppose adoption of the draft provided that the expression "and beneficial" was added after "adverse" in every occurrence of the phrase "adverse consequences of scientific and technological progress".

42. The CHAIRMAN said that, if he heard no objection, he would take it that the Sub-Commission agreed to that proposal.

43. It was so decided.

44. Draft resolution E/CN.4/Sub.2/1997/L.58 was adopted as orally amended.

Draft resolution E/CN.4/Sub.2/1997/L.61 (Commemoration of the fiftieth anniversary of the Universal Declaration of Human Rights)

45. Mr. FAN Guoxiang, supported by Mr. ALFONSO MARTINEZ, congratulated Mrs. Daes on her initiative and called on the Sub-Commission to adopt the draft resolution without a vote.

46. Draft resolution E/CN.4/Sub.2/1997/L.61 was adopted.

The meeting rose at 4.30 p.m.